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OFFICE OF PETITIONS

In re Application of	:	
HIGUCHI	:	DECISION
Application No. 09/774,694	:	ON PETITION
Filed: February 1, 2001	:	
Attorney Docket No. 03500.015094.	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply timely within the meaning of 37 CFR 1.113 to the final Office action, mailed January 18, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 19, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (1).

With respect to item (1), a review of the record does not include the required reply to the final Office Action mailed January 18, 2006. The Office notes that petitioner has declared non-receipt of this Office action. Enclosed is a courtesy copy of the Office action for petitioner's convenience. Additionally, the Office action can be viewed on Public PAIR.

Because the check referenced in the petition was not received, the petition fee of \$500 was charged to petitioner's deposit account, as authorized.

Telephone inquiries concerning this matter may be directed to Denise Pothier at (571) 272-4787.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks
Lead Paralegal
Office of Petitions

enc: Final Office action mailed January 18, 2006



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,694	02/01/2001	Yuichi Higuchi	35.C15094	3090
5514 7590 01/18/2006 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER JACOBS, LASHONDA T	
			ART UNIT 2157	PAPER NUMBER

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/774,694	Applicant(s) HIGUCHI, YUICHI	
	Examiner LaShonda T. Jacobs	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on September 30, 2005.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-8, 21-28, 41-48 and 74-79 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-8, 21-28, 41-48 and 74-79 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This is a Final Office Action in response to Applicant's Amendment/Request for Reconsideration filed on September 30, 2005. Claims 1-6, 8, 21-28, 41-48, 74 and 76-79 have been amended. Claims 1-8, 21-28, 41-48 and 74, 76-79 are presented for further examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 21-28, 41-48 and 74, 76-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiohara (U.S. Pat. No. 6,804,019) in view of Aoki (U.S. Pat. No. 6,369,907)

As per claims 1, 21 and 41, Shiohara discloses a server, which can communicate with a device, comprising:

- first storage unit adapted to store information representing an ability of the device (col. 4, lines 9-18);
- second storage unit adapted to store information representing an ability of a device driver for the device (col. 4, lines 42-49); and
- retrieval condition reception unit adapted to receive a retrieval condition for selecting the device (col. 5, lines 66-67 and col. 6, lines 1-6).

However, Shiohara does not explicitly disclose:

- a comparing unit adapted to compare the retrieval condition received by said retrieval condition unit with combined information, the combined information being a combination of the information stored by said first storage unit and the information stored by said second storage unit; and
- an output unit adapted to output a comparing result obtained by said comparing unit.

Aoki discloses a network system that provides connecting a printer to one network including:

- a comparing unit adapted to compare the retrieval condition received by said retrieval condition unit with combined information, the combined information being a combination of the information stored by said first storage unit and the information stored by said second storage unit (col. 9, lines 13-35 and col. 15, lines 10-30); and
- an output unit adapted to output a comparing result obtained by said comparing unit (col. 9, lines 30-36 and lines 42-62) .

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

As per claims 2, 22 and 42, Shiohara further discloses:

- first reception unit adapted to receive the information representing the ability of the device (col. 4, lines 9-18); and

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- second reception unit adapted to receive the information representing the ability of the device driver for the device (col. 4, lines 42-49).

As per claims 3, 23 and 43, Shiohara discloses the invention substantially as claims discussed above:

However, Shiohara does not explicitly disclose:

- a generation unit adapted to generate the combined information by combining the information stored by first storage unit and the information stored by said second storage unit together.

Aoki discloses a network system that provides connecting a printer to one network including:

- a generation unit adapted to generate the combined information by combining the information stored by first storage unit and the information stored by said second storage unit together (col. 9, lines 13-35 and col. 15, lines 10-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

As per claims 4, 24, and 44, Shiohara further discloses:

- a third storage unit adapted to store the information generated by said generation means to a storage unit (col. 4, lines 19-29).

As per claims 5, 25 and 45, Shiohara discloses the invention substantially as claims discussed above.

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However, Shiohara does not explicitly disclose:

- wherein said comparing unit compares the combined information stored by said third storage unit with the retrieval condition.

Aoki discloses a network system that provides connecting a printer to one network including:

- wherein said comparing unit compares the combined information stored by said third storage unit with the retrieval condition (col. 9, lines 13-35 and col. 15, lines 10-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

As per claims 6, 26 and 46, Shiohara discloses:

- wherein said output unit outputs an adaptivity based on the number of adapted conditions among the plural conditions included in the retrieval condition (col. 5, lines 66-67 and col. 6, lines 1-6).

However, Shiohara does not explicitly disclose:

- wherein said comparing unit compares the information stored by said first storage unit and, the information stored by said second storage unit with each condition included in the retrieval condition.

Aoki discloses a network system that provides connecting a printer to one network including:

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- wherein said comparing unit compares the information stored by said first storage unit and, the information stored by said second storage unit with each condition included in the retrieval condition (col. 9, lines 13-35 and col. 15, lines 10-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

As per claims 7, 27, and 47, Shiohara discloses:

- wherein the first information representing the ability of the device is information concerning any one of a duplex print, an N-up print, a job copy, a page copy, an OHP insertion print, a resolution, the number of print pages, a paper size, and a status of said device (col. 3, lines 1-3 and col. 5, lines 1-19).

As per claims 8, 28 and 48, Shiohara discloses:

- wherein the comparing by said comparing unit is performed with respect to plural devices (col. 6, lines 15-24).

As per claims 74 and 75, Shiohara discloses the invention substantially as claims discussed above.

However, Shiohara does not explicitly disclose:

- wherein said output unit outputs the comparing result in a form for discriminating the function executable by the device driver, as the result of the comparing by said comparing unit.

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Aoki discloses a network system that provides connecting a printer to one network including:

- wherein said output unit outputs the comparing result in a form for discriminating the function executable by the device driver, as the result of the comparing by said comparing unit (col. 9, lines 13-35 and col. 15, lines 10-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

As per claims 76 and 78, Shiohara discloses:

- wherein said retrieving step includes retrieving the device for which at least one of the ability of the device and the ability of the device driver satisfies the retrieval condition (col. 5, lines 1-19).

As per claims 77 and 79, Shiohara discloses the invention substantially as claims discussed above.

However, Shiohara does not explicitly disclose:

- wherein outputting step includes outputting the comparing result in a form for discriminating the function executable by the device driver, as the result of the comparing in said comparing step.

Aoki discloses a network system that provides connecting a printer to one network including:

- wherein outputting step includes outputting the comparing result in a form for discriminating the function executable by the device driver, as the result of the comparing in said comparing step (col. 9, lines 13-35 and col. 15, lines 10-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shiohara by combining the stored ability information of the printers together in order to allow the calculator processor to compute printer information based on the ability information in a timely and efficient manner.

Response to Arguments

3. Applicant's arguments with respect to claims 1-8, 21-28, 41-48 and 74-79 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004.

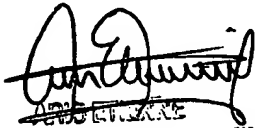
The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs
Examiner
Art Unit 2157

ltj
January 5, 2006


SUPERVISOR